

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GEOTAG, INC.,	§	
Plaintiff	§	
	§	Civil Action No. 2:10-CV-574-DF
v.	§	
	§	
THE WESTERN UNION COMPANY,	§	
ET AL.	§	JURY TRIAL DEMANDED
Defendants	§	

**HEB GROCERY COMPANY, LP'S ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendant HEB Grocery Company, LP ("HEB") hereby files this Answer and Affirmative Defenses to Plaintiff GeoTag, Inc's Amended Complaint for Patent Infringement ("Amended Complaint") by stating as follows:

ANSWER

PARTIES

1. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 1 of the Amended Complaint.
2. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 2 of the Amended Complaint.
3. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 3 of the Amended Complaint.
4. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 4 of the Amended Complaint.

5. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 5 of the Amended Complaint.

6. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 6 of the Amended Complaint.

7. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 7 of the Amended Complaint.

8. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 8 of the Amended Complaint.

9. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 9 of the Amended Complaint.

10. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 10 of the Amended Complaint.

11. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 11 of the Amended Complaint.

12. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 12 of the Amended Complaint.

13. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 13 of the Amended Complaint.

14. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 14 of the Amended Complaint.

15. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 15 of the Amended Complaint.

16. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 16 of the Amended Complaint.

17. HEB admits the allegations in paragraph 17 of the Amended Complaint.

18. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 18 of the Amended Complaint.

19. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 19 of the Amended Complaint.

20. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 20 of the Amended Complaint.

21. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 21 of the Amended Complaint.

22. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 22 of the Amended Complaint.

23. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 23 of the Amended Complaint.

24. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 24 of the Amended Complaint.

25. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 25 of the Amended Complaint.

26. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 26 of the Amended Complaint.

27. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 27 of the Amended Complaint.

28. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 28 of the Amended Complaint.

29. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 29 of the Amended Complaint.

30. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 30 of the Amended Complaint.

31. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 31 of the Amended Complaint.

32. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 32 of the Amended Complaint.

33. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 33 of the Amended Complaint.

34. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 34 of the Amended Complaint.

35. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 35 of the Amended Complaint.

36. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 36 of the Amended Complaint.

37. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 37 of the Amended Complaint.

38. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 38 of the Amended Complaint.

39. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 39 of the Amended Complaint.

40. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 40 of the Amended Complaint.

41. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 41 of the Amended Complaint.

42. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 42 of the Amended Complaint.

43. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 43 of the Amended Complaint.

44. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 44 of the Amended Complaint.

45. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 45 of the Amended Complaint.

46. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 46 of the Amended Complaint.

47. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 47 of the Amended Complaint.

48. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 48 of the Amended Complaint.

49. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 49 of the Amended Complaint.

JURISDICTION AND VENUE

50. HEB admits that this action purports to arise under the Patent Laws of the United States, Title 35, United States Code. HEB admits that this Court has jurisdiction over the subject matter based upon the Patent Laws of the United States, Title 35, United States Code, and by Title 28, United States Code, § 1331 and § 1338(a). The remaining allegations in paragraph 50 constitute conclusions of law to which no response is required.

51. HEB admits that HEB conducts business in this district. The remaining allegations in paragraph 51 constitute conclusions of law to which no response is required.

52. HEB is without sufficient knowledge or information either to admit or deny the allegations concerning the case *Geomas (International), Ltd. et al. vs. Idearc Media Services-West, Inc., et al.*, Civil Action No. 2:06-CV-00475-CE. The remaining allegations in paragraph 52 constitute conclusions of law to which no response is required.

COUNT ONE

INFRINGEMENT OF U.S. PATENT NO. 5,930,474

53. HEB admits that, on its face, United States Patent No. 5,930,474 (“the ’474 patent”) states as its title “Internet Organizer for Accessing Geographically and Topically Based Information.” HEB denies that the ’474 patent issued on July 29, 1999—on its face, the ’474 patent lists an issuance date of July 27, 1999. HEB denies that the ’474 patent was “duly and legally issued.”

54. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 54 of the Amended Complaint.

55. The allegations of paragraph 55 regarding the coverage of the claims of the patent are not a factual allegation and, to the extent those allegations regarding claim coverage

require a response, HEB is without sufficient knowledge or information either to admit or deny the allegations.

56. To the extent the allegations of paragraph 56 are directed to HEB, HEB denies those allegations. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 56 to the extent they are directed at other Defendants.

57. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 57 of the Amended Complaint.

58. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 58 of the Amended Complaint.

59. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 59 of the Amended Complaint.

60. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 60 of the Amended Complaint.

61. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 61 of the Amended Complaint.

62. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 62 of the Amended Complaint.

63. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 63 of the Amended Complaint.

64. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 64 of the Amended Complaint.

65. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 65 of the Amended Complaint.

66. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 66 of the Amended Complaint.

67. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 67 of the Amended Complaint.

68. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 68 of the Amended Complaint.

69. HEB denies the allegations of paragraph 69 of the Amended Complaint.

70. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 70 of the Amended Complaint.

71. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 71 of the Amended Complaint.

72. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 72 of the Amended Complaint.

73. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 73 of the Amended Complaint.

74. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 74 of the Amended Complaint.

75. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 75 of the Amended Complaint.

76. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 76 of the Amended Complaint.

77. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 77 of the Amended Complaint.

78. HEB is without sufficient knowledge or information either to admit or deny the allegations of Paragraph 78 of the Amended Complaint.

79. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 79 of the Amended Complaint.

80. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 80 of the Amended Complaint.

81. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 81 of the Amended Complaint.

82. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 82 of the Amended Complaint.

83. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 83 of the Amended Complaint.

84. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 84 of the Amended Complaint.

85. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 85 of the Amended Complaint.

86. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 86 of the Amended Complaint.

87. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 87 of the Amended Complaint.

88. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 88 of the Amended Complaint.

89. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 89 of the Amended Complaint.

90. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 90 of the Amended Complaint.

91. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 91 of the Amended Complaint.

92. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 92 of the Amended Complaint.

93. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 93 of the Amended Complaint.

94. HEB is without sufficient knowledge or information either to admit or deny the allegations of paragraph 94 of the Amended Complaint.

95. HEB believes that no response is required to the conditional statement of paragraph 95 and interprets this paragraph as confirming that no willful infringement is alleged with respect to HEB. HEB denies that Plaintiff may reserve the right to a finding of willful infringement without properly and timely pleading such a cause of action.

96. HEB denies the allegations of paragraph 96.

AFFIRMATIVE AND OTHER DEFENSES

FIRST DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted.

SECOND DEFENSE

HEB has not infringed, either literally or under the doctrine of equivalents, any valid or enforceable claim of the '474 patent.

THIRD DEFENSE

The claims of the '474 patent are invalid under one or more provisions of Title 35, United States Code, including but not limited to 35 U.S.C. §§ 101, 102, 103, and/or 112.

FOURTH DEFENSE

Plaintiff's claims for relief are barred, in whole or in part, by the equitable doctrine of unclean hands, equitable estoppel, and/or prosecution history estoppel.

FIFTH DEFENSE

Plaintiff is barred by 35 U.S.C. § 288 from recovering any costs associated with this suit.

SIXTH DEFENSE

Plaintiff's claims for relief concerning the '474 patent are limited by failure to comply with the marking and notice requirements of 35 U.S.C. § 287(a).

SEVENTH DEFENSE

As to some or all of Plaintiff's claims concerning the '474 patent, Plaintiff's recovery for alleged infringement, if any, is limited to any alleged infringement committed no more than six years prior to the filing of its Complaint, pursuant to 35 U.S.C. § 286.

EIGHTH DEFENSE

Plaintiff's requested relief on the '474 patent is barred or otherwise limited by the doctrine of laches.

PRAYER

WHEREFORE, HEB denies that Plaintiff is entitled to any relief sought, respectfully requests that judgment be entered in its favor and against Plaintiff, and requests that HEB be awarded its costs and such other relief the Court deems just.

JURY DEMAND

HEB requests a jury for the trial of this matter.

Dated: April 1, 2011

Respectfully submitted,

/s/ Jennifer Adams

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**ATTORNEYS FOR DEFENDANT
HEB GROCERY COMPANY, LP**

CERTIFICATE OF SERVICE

I certify that on April 1, 2011 all counsel of record were served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Jennifer Adams

Jennifer Adams